

**BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

In re Ethicon Physiomesb Flexible Composite
Hernia Mesh Products Liability Litigation

FILED
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2017 MAR 13 AM 9 30
U.S. DISTRICT COURT
MDL-17-22

**MOTION FOR TRANSFER TO THE MIDDLE DISTRICT OF FLORIDA, OR IN THE
ALTERNATIVE TO THE SOUTHERN DISTRICT OF ILLINOIS, PURSUANT TO 28
U.S.C. § 1407**

COME NOW, the Plaintiffs represented by the undersigned counsel and respectfully move the Panel pursuant to 28 U.S.C. § 1407, for an order transferring 18 product liability actions pending in 9 federal district courts, as reflected in the Schedule of Actions filed contemporaneously herewith, to the Middle District of Florida, or in the alternative, to the Southern District of Illinois, for coordinated and/or consolidated pretrial proceedings. The accompanying Schedule of Actions lists the 18 actions subject to this motion.

In support of this motion, Plaintiffs state the following, as more fully set forth in the accompanying Brief in Support of this motion:

1. In accordance with 28 U.S.C. § 1407, the undersigned are seeking the transfer of all federal cases involving the Physiomesb Flexible Composite ("Physiomesb") hernia repair mesh product, to the same U.S. District Court for coordinated and/or consolidated proceedings.
2. The actions for which transfer and consolidation and/or coordination are proposed herein allege similar product liability claims involving the same Physiomesb hernia repair mesh product. Each action alleges that the defendants Johnson & Johnson and Ethicon, Inc. defectively designed and manufactured the Physiomesb products, and failed to provide appropriate warnings and instructions with these devices.

2. Movants are not aware of any actions, other than the 18 actions proposed for transfer herein, which are on file in a federal district court alleging similar claims. These 18 actions are listed in the Schedule of Actions filed herewith.

4. Movants propose that the actions filed outside of the Middle District of Florida, or alternatively the Southern District of Illinois, be transferred to that district.

5. The actions listed in the Schedule of Actions involve one or more common questions of fact relating to these common defendants' research, development, design, testing, manufacturing, selling, marketing and labeling of the Physiomesh device.

6. The centralization of these actions in a single judicial district for coordinated and/or consolidated pretrial proceedings will promote the just and efficient conduct of these actions, will serve the convenience of all parties and witnesses and will promote the interests of justice. The transfer of these cases will conserve judicial resources, reduce litigation costs, avoid potentially inconsistent pretrial scheduling orders and substantive rulings, and will eliminate unnecessary duplicative discovery.

7. None of the related actions are sufficiently advanced toward trial that they would be unduly prejudiced by transfer.

8. This motion is based on the accompanying Brief and Schedule of Actions. As set forth more fully in the accompanying Brief, and for the reasons stated there, Plaintiffs respectfully submit that the Middle District of Florida, or alternatively the Southern District of Illinois, would be well-suited to serve as transferee court for an MDL coordination in the constituent actions and any cases to be filed in the future involving similar Physiomesh product liability claims against these same defendants.

WHEREFORE, Movants respectfully move the Panel to order that the actions currently pending in any federal district court, which are listed in the Schedule of Actions filed herewith, as well as any cases that may be subsequently filed in any United States District Court asserting related or similar claims, be transferred to the Middle District of Florida, or alternatively, the Southern District of Illinois, for coordinated and/or consolidated pretrial proceedings.

Dated this 9th day of March, 2017.

Respectfully submitted,

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Counsel for Plaintiffs in the following actions: *Franklin* 4:17-cv-00031-CDL (M.D. Ga.); *Brown* 4:17-cv-00036-HLM (N.D. Ga.); *Winfrey* 4:17-cv-00040-HLM (N.D. Ga.); *Gilman* 8:16-cv-03502-JDW-JSS (M.D. Fla.); *Sunter* 8:17-cv-00113-SCB-TGW (M.D. Fla.); *Carr* 6:17-cv-00393-GAP-KRS (M.D. Fla.); *Shelton* 2:17-cv-00614-RMG (D. S.C.); *Graham* 3:17-cv-00229-MMH-JRK (M.D. Fla.); *Keefer* Case No. 1:17-cv-00603-MEH (D. Colo.)

**BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT
LITIGATION**

IN RE REWALK ROBOTICS LTD.,
STOCKHOLDER LITIGATION

MDL No. _____

ORAL ARGUMENT REQUESTED

FILED
IN CLERK'S OFFICE
2017 MAR 13 PM 1:03
U.S. DISTRICT
COURT
DISTRICT OF
SOUTHERN DISTRICT
OF NEW YORK

Proof of Service

I hereby certify that a copy of the foregoing Amended and Corrected Schedule of Actions and this Certificate of Service was served by first class mail on March 8, 2017, to the Persons listed below.

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13. Hadar Ron
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14. Asaf Shinar
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22. Pontifax

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Defendant

N.D. California, No. 4:17-cv-00362

Dated: March 8, 2017
New York, New York

Respectfully Submitted

By:

A handwritten signature in black ink, appearing to read 'Lourdes Chavez', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke.

Lourdes Chavez

**BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT
LITIGATION**

IN RE REWALK ROBOTICS LTD.,
STOCKHOLDER LITIGATION

MDL No. _____

ORAL ARGUMENT REQUESTED

Amended and Corrected Proof of Service

I hereby certify that a copy of the Defendants ReWalk Robotics, Ltd., Larry Jasinski, Wayne B. Weisman, Glenn Muir, Barclays Capital Inc., Jefferies LLC, and Canaccord Genuity Inc.'s Motion for Transfer of Actions to the District of Massachusetts Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings, Brief, Declaration of Kevin Hershberger with exhibits, Declaration of Edward Han with exhibits, and Declaration of Samuel R. Feldman with exhibits was served by first class mail on March 6, 2017, to the Persons listed below at numbers 1-9.

I hereby certify that a copy of this Amended and Corrected Certificate of Service was served by first class mail on March 8, 2017, to the Persons listed below at numbers 1-9.

I hereby certify that a copy of the Defendants ReWalk Robotics, Ltd., Larry Jasinski, Wayne B. Weisman, Glenn Muir, Barclays Capital Inc., Jefferies LLC, and Canaccord Genuity Inc.'s Motion for Transfer of Actions to the District of Massachusetts Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings, Brief, Declaration of Kevin Hershberger with exhibits, Declaration of Edward Han with exhibits, Declaration of Samuel R. Feldman with exhibits, and this Amended and Corrected Certificate of Service was served by first class mail on March 8, 2017, to the Persons listed below at numbers 10-22.

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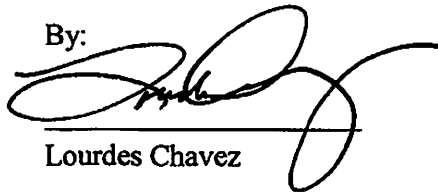
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Dated: March 8, 2017
New York, New York

Respectfully Submitted

By:

A handwritten signature in black ink, appearing to read 'Lourdes Chavez', is written over a horizontal line.

Lourdes Chavez

**BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT
LITIGATION**

IN RE REWALK ROBOTICS LTD.,
STOCKHOLDER LITIGATION

MDL No. _____

AMENDED AND CORRECTED SCHEDULE OF ACTIONS

Case Captions	Court	Civil Action No.	Judge
Plaintiffs: Donald Rolland, Individually and On Behalf of All Others Similarly Situated Defendants: ReWalk Robotics Ltd.; Larry Jasinski; Ami Kraft; Amit Goffer; Jeff Dykan; Hadar Ron; Asaf Shinar; Wayne B. Weisman; Yasushi Ichiki; Aryeh Dan; Glenn Muir; John William Poduska; Deborah Disanzo; Barclays Capital, Inc.; Jefferies LLC; Canaccord Genuity Inc.; SCP Vitalife Partners; Yaskawa Electric Corp.; Israel Healthcare Ventures 2 L.P.; Pontifax	N.D. California	4:17-cv-362	Haywood S Gilliam, Jr.
Plaintiffs: Oian Deng; David Hershlikovitz; Jacie888, Inc.; Michael C. Kemmerling; Narbeh Nathan; Paul Sislin, Individually and On Behalf of All Others Similarly Situated Defendants: ReWalk Robotics Ltd.; Larry Jasinski; Ami Kraft; Amit Goffer; Jeff Dykan; Hadar Ron; Asaf Shinar; Wayne B. Weisman; Yasushi Ichiki; Aryeh Dan; Glenn Muir; Barclays Capital, Inc.; Jefferies LLC; Canaccord Genuity Inc.	D. Massachusetts	1:17-cv-10169-FDS	F. Dennis Saylor, IV

**BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

In re Ethicon Physiomesb Flexible Composite
Hernia Mesh Products Liability Litigation

MDL-17-22

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR TRANSFER TO THE MIDDLE
DISTRICT OF FLORIDA, OR IN THE ALTERNATIVE TO THE SOUTHERN
DISTRICT OF ILLINOIS, PURSUANT TO 28 U.S.C. § 1407**

COME NOW the Plaintiffs in the pending constituent civil actions listed in the attached Schedule of Actions represented by undersigned counsel, and file their Motion to Transfer to the Middle District of Florida, or in the alternative, to the Southern District of Illinois, pursuant to 28 U.S.C. § 1407 as follows:

I. BACKGROUND

This product liability litigation involves the Physiomesb Flexible Composite (hereinafter, "Physiomesb"), a synthetic mesh hernia repair device designed, manufactured and sold by defendants Ethicon, Inc. and Johnson & Johnson. The Physiomesb device at issue in these cases is an implantable synthetic surgical mesh product sold for use in hernia repair implanted through laparoscopic herniorrhaphy.

Physiomesb has a unique design incorporating five (5) distinct layers: two layers of polyglecaprone-25 ("Monocryl") film covering two underlying layers of polydioxanone film ("PDS"), which in turn coat a polypropylene mesh. This design has never been used in any other hernia repair product sold anywhere in the world. The multi-layer coating was represented and promoted by the Defendants to prevent or minimize adhesion and inflammation and to facilitate incorporation and fixation of the mesh into the abdomen. However, Plaintiffs intend to demonstrate that the multi-layer coating instead prevented adequate incorporation of the mesh and caused or contributed to a variety of serious complications. In addition, the polypropylene

mesh portion of the Physiomesh was insufficient to withstand normal abdominal forces, which often resulted in herniation through the mesh itself, recurrent hernia formation and/or rupture and deformation of the mesh itself. The defendants ultimately voluntarily withdrew the Physiomesh device from the market in May 2016, which Plaintiffs intend to establish was a direct consequence of the frequency and severity of the complications experienced with this product worldwide.

The plaintiffs in the constituent civil actions are men and women who received implants of the Physiomesh product for hernia repair, and where applicable, their spouses. All of the plaintiffs in the constituent cases claim that the devices implanted in their bodies were defectively designed and/or manufactured, and that the defendants failed to provide appropriate warnings and instructions regarding the dangers posed by these devices.

The plaintiffs herein suffered serious and often permanent physical injuries from the implantation of the Physiomesh, often requiring additional surgeries, additional medical expenses, and unresolved medical complications. Where applicable, these implant plaintiffs' spouses have alleged claims for loss of consortium.

All of the constituent cases involve the Physiomesh device, and common defendants Ethicon, Inc. and Johnson & Johnson.

II. THE LOCATION AND STATUS OF THE ACTIONS

To date, 18 plaintiffs (and, in many instances, their spouses) have filed civil actions arising from the implantation of the Physiomesh device designed, manufactured and sold by defendants Ethicon, Inc. and Johnson & Johnson.

There are 18 actions pending in 9 federal districts. The breakdown is: Middle District of Florida (6 actions); Southern District of Illinois (2 actions); Northern District of Georgia (2

actions); District of Colorado (2 actions); Middle District of Georgia (1 action); District of South Carolina (1 action); Eastern District of Kentucky (1 action); District of Massachusetts (1 action); Northern District of Oklahoma (1 action); District of New Jersey (1 action).

Upon information and belief, there were more than 330,000 Physiomesh devices sold worldwide, and Plaintiffs believe approximately 50% of those products were sold in the United States. It is the expectation of the undersigned that there will be hundreds of additional cases filed in the near future involving these products.

ARGUMENTS

I. These actions are appropriate for centralization and transfer for coordinated and/or consolidated pretrial treatment under 28 U.S.C. § 1407.

The constituent cases satisfy the criteria for MDL coordination and/or consolidation. These cases involve many common questions of fact, and transfer of these cases to a single court will serve the convenience of the parties and witnesses. These 18 actions currently pending in 9 separate federal district courts all involve similar product liability design defect and warnings claims against the manufacturer/seller defendants (Ethicon, Inc. and Johnson & Johnson) regarding the same Physiomesh hernia repair device that was implanted in each of these men and women.

Having a single judge preside over the pretrial proceedings in these cases would promote efficiency and economy by avoiding duplicative discovery from similarly situated claimants who have asserted common product liability claims, will prevent potentially inconsistent pretrial rulings regarding factual and legal issues common to all cases, and will help preserve the resources of the parties, their counsel and the judiciary by eliminating redundancy of effort.

The Panel has previously found that product liability actions involving similar legal claims relating to similar implantable surgical mesh devices are appropriate for centralization

under 28 U.S.C. § 1407. In re Protegen Sling and Vesica Systems Prods. Liab. Litig., MDL No. 1387 (J.P.M.L. 2001); In re Kugel Mesh Hernia Patch Litigation, 493 F.Supp.2d 137, MDL No. 1842 (J.P.M.L. 2007); In re Mentor Corp. ObTape Transobturator Sling Prods. Liab. Litig., 588 F. Supp. 2d 1374, MDL No. 2004 (J.P.M.L. 2008); In re Avaulta Pelvic Support Sys. Prods. Liab. Litig., MDL No. 2187 (J.P.M.L. 2010); In re American Medical Systems, Inc., et al., Pelvic Repair Systems Prods. Liab. Litig., 844 F.Supp.2d 1359, MDLs Nos. 2325, 2326, 2327 (J.P.M.L. 2012) (3 separate pelvic mesh MDLs); In re Coloplast Corp. Pelvic Repair Support Sys. Prods. Liab. Litig., 883 F.Supp.2d 1348, MDL 2387 (J.P.M.L. 2012); In re Cook Medical, Inc., Pelvic Repair Sys. Prods. Liab. Litig., 949 F.Supp.2d 1373, MDL 2440 (J.P.M.L. 2013); In re Neomedic Pelvic Repair Sys. Prods. Liab. Litig., 999 F.Supp.2d, MDL 2511 (J.P.M.L. 2014); In re Atrium Medical Corp. C-Qur Mesh Prods. Liab. Litig., MDL 2753 (J.P.M.L.2016). Like each of these surgical mesh MDLs, the constituent cases involve multiple common questions of fact relating to the Physiomesh product, including its manufacture, design, sale and warnings, and the defendants' corporate conduct and knowledge. Transfer of these related product liability cases to a single court would eliminate inconsistency and redundancy, would promote efficiency and judicial economy, and allow for effective coordination in accordance with 28 U.S.C. § 1407.

II. The Middle District of Florida is uniquely situated to serve as the proper forum for coordinated and/or consolidated pretrial proceedings of these actions.

Transfer of these common hernia mesh repair product cases to a single Court before a single judge for purposes of pre-trial discovery and coordination is necessary for the effective and efficient management of this litigation. From a practical standpoint, the Middle District of Florida is uniquely situated as the appropriate forum to handle these cases because that Court has the most constituent cases filed, and one of the first-filed cases in the country.

Although Section 1407 does not specify criteria for selecting a transferee forum, the overarching goal is to find a court that will advance “the convenience of the parties and will promote the just and efficient conduct” of the transferred cases. To that end, the Panel has generally favored districts in which a number of constituent cases are pending, and whose judges have had the opportunity to become familiar with the relevant issues. See, e.g., 15 Charles A. Wright, Arthur R. Miller & Edward H. Cooper, *Federal Practice and Procedure* § 3864 (2007); David H. Herr, *Multidistrict Litigation Manual*, § 6 (2016). The Panel has also favored courts that are convenient and accessible, have favorable docket conditions, and districts for which the parties have stated a preference. See, e.g., Wright, Miller & Cooper, *supra* at § 3864; Herr, *supra* at § 6. In the context of this litigation, the district that best satisfies these criteria is the Middle District of Florida.

1. The Middle District of Florida has the most filed cases, and one of the first-filed cases.

Of the 18 filed cases, the Middle District of Florida has the most pending constituent civil actions (6) of any federal district court where these actions are filed. See, In re Multi-Piece Rim Products Liability Litigation, 464 F.Supp. 969, 975 (J.P.M.L. 1979) (district in which more cases pending than any other district was proper transferee forum); In re the Dept. of Energy Stripper Well Exemption Litigation, 472 F.Supp. 1282, 1286 (J.P.M.L. 1979) (choosing district where majority of actions pending); In re Data Gen. Corp. Antitrust Litigation, 470 F.Supp. 855, 859 (J.P.M.L. 1979) (preferable transferee district is where most actions pending). The first-filed case in the Middle District of Florida (*Quinn*, C.A. No. 6:16-CV-01663) was the second constituent action to be filed in the country. Since *Quinn*, five additional cases have been filed in the Middle District of Florida. These six cases are each assigned to different judges. No other District Court presently has more than two cases filed. While none of the cases in any District

Court are so advanced procedurally that MDL coordination would impair significant progress, an Answer has been filed, Initial Disclosures and a Case Management Report have been served, and a Case Management Order has been entered in *Quinn*. Thus, of the Middle District of Florida judges who are assigned constituent actions, the Hon. Paul G. Byron in *Quinn* has had an opportunity to become familiar with the issues and parties in the case. In re American Investors Life Ins. Co. Annuity Marketing and Sales Practices Litigation, 398 F.Supp.2d 1361 (J.P.M.L. 2005) (appropriate forum where five constituent actions already proceeding, and judge who “has already developed familiarity with the issues present in this docket as a result of presiding over motion practice and other pretrial proceedings in the actions pending before her for the past year.”).

2. The Middle District of Florida has favorable docket conditions, and the resources and ability to manage this litigation.

The Federal Court Management Statistics show that the Middle District of Florida has 617 pending civil cases per judgeship, a median time of 22.0 months from filing to disposition for civil cases, and only 3.5% of civil cases in the district are more than three years old. (See, Fed. Court Management Statistics for M.D. Florida is attached hereto as “**Exhibit 1**”).

None of the Middle District of Florida Judges to whom constituent cases have been assigned are currently handling any MDL proceedings. Judge Byron, who presides over the first case filed in the Middle District of Florida (*Quinn*), in particular would be well-suited to handle this litigation as he has never previously had an opportunity to handle an MDL proceeding. The Hon. James D. Whittemore (*Gilman*) and the Hon. Susan C. Bucklew (*Sunter*) who have the second and third filed cases within the Middle District of Florida are likewise well-suited to preside over an MDL proceeding.

3. The Middle District of Florida is convenient and accessible.

The majority of the pending constituent cases are filed in district courts in the Southeastern portion of the United States, with 11 of the 18 cases pending in districts in the Southeast (M. Dist. of Florida; N. Dist. and M. Dist. of Georgia; Dist. of South Carolina; and, E. Dist. Of Kentucky). The Southeast is the “center of gravity” for these cases. Therefore, for purposes of this litigation, the Middle District of Florida is a centrally located district. See, e.g., In re American Gen. Life and Accident Ins. Co. Industrial Life Ins. Litigation, 175 F.Supp.2d 1380, 1381 (J.P.M.L. 2001) (transfer to Dist. of S. Carolina litigation that had “a Southern tilt.”); In re Columbia Univ. Patent Litigation, 313 F.Supp.2d 1383, 1385 (J.P.M.L. 2004) (transfer to Dist. of Massachusetts based in part on fact that most of the parties were located “in the eastern part of the United States.”).

The Middle District of Florida is readily accessible to all parties involved in this litigation. The cases pending in the Middle District of Florida are filed in Orlando, Tampa and Jacksonville. All three of these major cities have international airports serviced by multiple daily direct flights throughout the country.

Plaintiffs note that in all but one of the cases where the Defendants have filed their Answer, they are represented by one or more attorneys from the Mississippi office of the Butler Snow law firm. In the one case where the Butler Snow firm has not made an appearance (*Franklin*, M.D.Ga. C.A. No. 4:17-CV-00031), the defendants are represented by attorneys from the Atlanta, Georgia office of the Troutman Sanders law firm.

III. In the alternative, these cases should be transferred to the Southern District of Illinois.

The Southern District of Illinois is also well-suited for receipt of an MDL in this litigation. The Hon. David R. Herndon presides over one of two constituent actions filed in the Southern District of Illinois (*Worrell*, C.A. No. 3:17-CV-11172). Judge Herndon has substantial

product liability MDL experience, and he has proven to be an innovative and well-qualified MDL judge. Although Judge Herndon is currently presiding over two MDLs, *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Prods. Liab. Litig.*, MDL 2100, and *In re Pradaxa (Dabigatran Etexilate) PL*, MDL 2385, both of those MDLs are presently in a settlement posture, largely owing to Judge Herndon's efficient management of those litigations.

This Panel has previously noted Judge Herndon's experience handling complex product liability MDLs:

[B]y selecting Judge David R. Herndon to preside over this matter, we are selecting a jurist with the willingness and ability to handle this litigation. Judge Herndon, an experienced MDL judge, has deftly presided over *In re: Yasmins and Yaz (drospirenon) Marketing Sales Practices*, 655 F. Supp. 2d 1343 (J.P.M.L. 2009), another large pharmaceutical products liability litigation.

In re: Pradaxa (Dabigatran Etexilate) Products liability Litigation, 883 F. Supp. 2d at 1356.

In the *Praxada* MDL, Judge Herndon helped to facilitate a global settlement of over 2,600 constituent cases in under 22 months. Judge Herndon managed this settlement quickly and efficiently. Similarly, in the *Yaz* MDL which involved nearly 12,000 cases, Judge Herndon facilitated a mass settlement initiative in under 27 months. Judge Herndon's experience, and his innovative and aggressive approach to moving cases forward, make him particularly qualified to serve as transferee judge in this proposed MDL.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this motion be granted and that all pending Physiomesh Composite cases be transferred pursuant to 28 U.S.C. § 1407 to the Middle District of Florida. Plaintiffs further ask the Panel to consider the Hon. Paul G. Byron, the Hon. James D. Whittemore and the Hon. Susan C. Bucklew as appropriate judges to preside

over this matter. In the alternative, Plaintiffs propose that the Court consider transfer to the Southern District of Illinois, before the Hon. David R. Herndon.

Dated this 9th day of March, 2017.

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(N.D. Ga.); *Gilman* 8:16-cv-03502-JDW-
JSS (M.D. Fla.); *Sunter* 8:17-cv-00113-
SCB-TGW (M.D. Fla.); *Carr* 6:17-cv-
00393-GAP-KRS (M.D. Fla.); *Shelton*
2:17-cv-00614-RMG (D. S.C.); *Graham*
3:17-cv-00229-MMH-JRK (M.D. Fla.);
Keefer Case No. 1:17-cv-00603-MEH (D.
Colo.)

Exhibit 1

Comparison of Districts Within the Eleventh Circuit — 12-Month Period Ending September 30, 2016

		AL,N	AL,M	AL,S	FL,N	FL,M	FL,S	GA,N	GA,M	GA,S
		2,916	1,326	1,197	2,553	11,103	12,932	6,599	1,993	1,649
Overall Caseload Statistics	Filings	2,963	1,212	1,208	2,342	11,190	12,373	6,125	1,920	1,667
	Terminations	3,013	1,479	929	2,161	8,505	7,081	5,692	1,899	1,299
	Pending	-0.1	5.2	7.7	11.9	8.2	8.1	6.3	14.7	4.9
	Percent Change in Total Filings Last Year	-44.2	-4.3	-12.2	7.7	10.4	10.2	1.4	10.7	3.4
	Over Current Year	8	3	3	4	15	18	11	4	3
	Number of Judgeships	24.0	12.0	6.8	9.0	24.0	13.8	12.0	1.0	0.0
	Vacant Judgeship Months ¹	365	442	399	638	740	718	600	498	550
	Total	306	359	235	534	617	554	518	395	368
Actions per Judgeship	Civil	43	64	113	60	92	137	64	87	131
	Criminal Felony	16	19	51	44	31	27	18	16	51
	Supervised Release Hearings	377	493	310	540	567	393	517	475	433
	Pending Cases	327	394	359	541	617	707	547	398	470
	Weighted Filings ¹	370	404	403	586	746	687	557	480	556
	Terminations	31	16	20	40	19	28	21	16	39
	Trials Completed	7.1	9.7	6.9	7.2	7.3	5.4	10.0	11.5	7.3
	Criminal Felony	9.7	9.4	8.3	7.9	7.1	4.2	6.2	15.2	10.0
Median Time (Months)	Civil ¹	16.3	-	-	22.1	22.0	17.8	28.9	20.8	-
	From Filing to Trial ¹ (Civil Only)	252	83	33	48	241	108	285	43	47
Other	Number (and %) of Civil Cases Over 3 Years Old ¹	10.0	7.4	5.8	2.7	3.5	2.2	6.2	3.1	5.3
	Average Number of Felony Defendants Filed per Case	1.1	1.4	1.3	1.4	1.3	1.5	1.7	1.8	1.6
	Avg. Present for Jury Selection	40.2	39.0	36.1	37.2	37.2	44.2	40.7	41.7	45.1
	Percent Not Selected or Challenged	35.4	33.1	23.4	16.5	24.7	18.4	32.8	35.2	50.2

NOTE: Criminal data in this profile count defendants rather than cases and therefore will not match previously published numbers.

¹ See "Explanation of Selected Terms."

**BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

In re Ethicon Physiomesb Flexible Composite
Hernia Mesh Products Liability Litigation

MDL-17-22

SCHEDULE OF ACTIONS

	Case Captions	Court	Division	Case Number	Judge
1	Bilyana Barakova and Valeri Barakova v. Ethicon, Inc. and Johnson & Johnson	D. Colo.	Denver	1:17-cv-00543-RBJ	R. Brooke Jackson
2	Alison Keefer and Erik Keefer v. Johnson & Johnson and Ethicon, Inc.	D. Colo.	Denver	1:17-cv-00603-MEH	Michael E. Hegarty
3	David Watring v. Ethicon, Inc.	D. Mass	Boston	1:16-cv-12278-RGS	Richard G. Stearns
4	David Ramey v. Ethicon, Inc. and Johnson & Johnson	D. N.J.	Trenton	3:17-cv-01455-FLW-DEA	Freda L. Wolfson
5	Eddie Shelton and Nancy Shelton v. Ethicon, Inc. and Johnson & Johnson	D. S.C.	Charleston	2:17-cv-00614-RMG	Richard M. Gergel
6	Robert B. Carrillo v. Ethicon, Inc. and Johnson & Johnson	E.D. Ky.	Pikeville	7:17-cv-00037-ART-HAI	Hanley Ingram
7	Joanne Quinn v. Ethicon, Inc. and Johnson & Johnson	M.D. Fla.	Orlando	6:16-cv-01663-PGB-DCI	Paul B. Byron
8	Sarah Ann Gilman v. Ethicon, Inc. and Johnson & Johnson	M.D. Fla.	Tampa	8:16-cv-03502-JDW-JSS	James D. Whittemore
9	David A. Sunter v. Ethicon, Inc. and Johnson & Johnson	M.D. Fla.	Tampa	8:17-cv-00113-SB-TGW	Susan C. Bucklew
10	Patricia Miller v. Ethicon, Inc. and Johnson & Johnson	M.D. Fla.	Tampa	8:17-cv-00396-VMC-JSS	Virginia M. Hernandez Covington
11	Lillian Graham v. Ethicon, Inc. and Johnson & Johnson	M.D. Fla.	Jacksonville	3:17-cv-00229-MMH-JRK	Marcia Morales Howard

12	Edith J. Carr and David Middleton Carr v. Ethicon, Inc. and Johnson & Johnson	M.D. Fla.	Orlando	6:17-cv-00393-GAP-KRS	Gregory A. Presnell
13	Connie Franklin and Marvin Franklin v. Ethicon, Inc. and Johnson & Johnson	M.D. Ga.	Columbus	4:17-cv-00031-CDL	Clay D. Land
14	Henry Lee Brown v. Ethicon, Inc. and Johnson & Johnson	N.D. Ga.	Rome	4:17-cv-00036-HLM	Harold L. Murphy
15	Jeffrey Leyton Winfrey v. Ethicon, Inc. and Johnson & Johnson	N.D. Ga.	Rome	4:17-cv-00040-HLM	Harold L. Murphy
16	Gabrielle Cox v. Ethicon, Inc.	N.D. Okla.	Tulsa	4:16-cv-00729-JED-FHM	John E. Dowdell
17	Matthew Huff v. Ethicon, Inc.	S.D. Ill.	East St. Louis	3:16-cv-00368-JPG-RJD	J. Phil Gilbert
18	Doreen Worrell v. Ethicon, Inc. and Johnson & Johnson	S.D. Ill.	East St. Louis	3:17-cv-00172-DRH-RJD	David R. Herndon

Dated this 9th day of March, 2017.

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**BEFORE THE UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

In re Ethicon Physiomesb Flexible Composite
Hernia Mesh Products Liability Litigation

MDL-17-22

PROOF OF SERVICE

In compliance with Rule 4.1(a) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, I hereby certify that the Motion For Transfer To The Middle District Of Florida, Or In The Alternative To The Southern District Of Illinois, Pursuant To 28 U.S.C. § 1407 and this Proof of Service were electronically filed with the Clerk of the JPML by using the CM/ECF and was served on all counsel or parties in manners indicated and addressed as follows:

VIA U.S. MAIL	
Defendant Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, New Jersey 08933 <i>Quinn v. Ethicon, Inc.</i> , Case No. 6:16-cv-01663-PGB-DCI (M.D. Fla.); <i>Gilman v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 8:16-cv-03502-JDW-JSS (M.D. Fla.); <i>Sunter v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 8:17-cv-00113-SCB-TGW (M.D. Fla.); <i>Franklin v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 4:17-cv-00031-CDL (M.D. Ga.); <i>Miller v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 8:17-cv-00396-VMC-JSS (M.D. Fla.); <i>Worrell v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 3:17-cv-00172-DRH-RJD (S.D. Ill.); <i>Carrillo v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 7:17-cv-00037-ART-HAI (E.D. Ky.); <i>Brown v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 4:17-cv-00036-HLM (N.D. Ga.); <i>Graham v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 3:17-cv-00229-MMH-JRK (M.D. Fla.); <i>Barakova v. Johnson</i>	Defendant Ethicon, Inc. U.S. Route 22 Somerville, New Jersey 08876 <i>Huff v. Ethicon, Inc.</i> , Case No. 3:16-cv-00368-JPG-RJD (S.D. Ill.); <i>Quinn v. Ethicon, Inc.</i> , Case No. 6:16-cv-01663-PGB-DCI (M.D. Fla.); <i>Watring v. Ethicon, Inc.</i> , Case No. 1:16-cv-12278-RGS (D. Mass.); <i>Cox v. Ethicon, Inc.</i> , Case No. 4:16-cv-00729-JED-FHM (N.D. Okla.); <i>Gilman v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 8:16-cv-03502-JDW-JSS (M.D. Fla.); <i>Sunter v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 8:17-cv-00113-SCB-TGW (M.D. Fla.); <i>Franklin v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 4:17-cv-00031-CDL (M.D. Ga.); <i>Miller v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 8:17-cv-00396-VMC-JSS (M.D. Fla.); <i>Worrell v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 3:17-cv-00172-DRH-RJD (S.D. Ill.); <i>Carrillo v. Johnson & Johnson and Ethicon, Inc.</i> , Case No. 7:17-cv-00037-ART-HAI (E.D. Ky.);

<p><i>& Johnson and Ethicon, Inc.</i>, Case No. 1:17-cv-00543-RBJ (D. Colo.); <i>Ramey v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 3:17-cv-01455-FLW-DEA (D. N.J.); <i>Shelton v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 2:17-cv-00614-RMG (D. S.C.); <i>Winfrey v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 4:17-cv-00040-HLM (N.D. Ga.); <i>Carr v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 6:17-cv-00393-GAP-KRS (M.D. Fla.); <i>Keefer v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 1:17-cv-00603-MEH (D. Colo.)</p>	<p><i>Brown v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 4:17-cv-00036-HLM (N.D. Ga.); <i>Graham v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 3:17-cv-00229-MMH-JRK (M.D. Fla.); <i>Barakova v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 1:17-cv-00543-RBJ (D. Colo.); <i>Ramey v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 3:17-cv-01455-FLW-DEA (D. N.J.); <i>Shelton v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 2:17-cv-00614-RMG (D. S.C.); <i>Winfrey v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 4:17-cv-00040-HLM (N.D. Ga.); <i>Carr v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 6:17-cv-00393-GAP-KRS (M.D. Fla.); <i>Keefer v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 1:17-cv-00603-MEH (D. Colo.)</p>
<p>Office of the Clerk United States District Court Middle District of Florida Orlando Division George C. Young U.S. Courthouse & Federal Building 401 West Central Boulevard Orlando, FL 32801</p> <p><i>Quinn v. Ethicon, Inc.</i>, Case No. 6:16-cv-01663-PGB-DCI (M.D. Fla.); <i>Carr v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 6:17-cv-00393-GAP-KRS (M.D. Fla.)</p>	<p>Office of the Clerk United States District Court Middle District of Florida Tampa Division Sam M. Gibbons U.S. Courthouse 801 North Florida Avenue Tampa, FL 33602</p> <p><i>Gilman v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 8:16-cv-03502-JDW-JSS (M.D. Fla.); <i>Sunter v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 8:17-cv-00113-SCB-TGW (M.D. Fla.); <i>Miller v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 8:17-cv-00396-VMC-JSS (M.D. Fla.)</p>
<p>Office of the Clerk United States District Court Middle District of Florida Jacksonville Division Bryan Simpson U.S. Courthouse 300 North Hogan Street Jacksonville, FL 32202</p> <p><i>Graham v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 3:17-cv-00229-MMH-JRK (M.D. Fla.)</p>	<p>Office of the Clerk United States District Court Southern District of Illinois East St. Louis Division 750 Missouri Avenue East St. Louis, IL 62201</p> <p><i>Huff v. Ethicon, Inc.</i>, Case No. 3:16-cv-00368-JPG-RJD (S.D. Ill.); <i>Worrell v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 3:17-cv-00172-DRH-RJD (S.D. Ill.)</p>

<p>Office of the Clerk United States District Court District of Massachusetts Boston Division 1 Courthouse Way Boston, MA 02210</p> <p><i>Watring v. Ethicon, Inc.</i>, Case No. 1:16-cv-12278-RGS (D. Mass.)</p>	<p>Office of the Clerk United States District Court Northern District of Oklahoma Page Belcher Federal Building 333 W. 4th Street Room 411 Tulsa, OK 74103</p> <p><i>Cox v. Ethicon, Inc.</i>, Case No. 4:16-cv-00729-JED-FHM (N.D. Okla.)</p>
<p>Office of the Clerk United States District Court Middle District of Georgia Columbus Division U.S. Post Office & Court House P.O. Box 124 Columbus, GA 31902</p> <p><i>Franklin v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 4:17-cv-00031-CDL (M.D. Ga.)</p>	<p>Office of the Clerk United States District Court Eastern District of Kentucky Pikeville Division 110 Main Street Suite 203 Pikeville, KY 41501-6160</p> <p><i>Carrillo v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 7:17-cv-00037-ART-HAI (E.D. Ky.)</p>
<p>Office of the Clerk United States District Court Northern District of Georgia Rome Division United States Courthouse 600 East First Street Rome, GA 30161-3149</p> <p><i>Brown v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 4:17-cv-00036-HLM (N.D. Ga.); <i>Winfrey v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 4:17-cv-00040-HLM (N.D. Ga.)</p>	<p>Office of the Clerk United States District Court District of Colorado Denver Division Alfred A. Arraj Courthouse 901 19th Street Denver, CO 80294</p> <p><i>Barakova v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 1:17-cv-00543-RBJ (D. Colo.); <i>Keefer v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 1:17-cv-00603-MEH (D. Colo.)</p>

<p>Office of the Clerk United States District Court Charleston Division Charleston Federal Courthouse 85 Broad Street Charleston, SC 29401</p> <p><i>Shelton v. Johnson & Johnson and Ethicon, Inc.</i>, Case No. 2:17-cv-00614-RMG (D. S.C.)</p>	
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This 9th day of March, 2017.

Respectfully submitted,

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2:17-cv-00614-RMG (D. S.C.); *Graham*
3:17-cv-00229-MMH-JRK (M.D. Fla.);
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